

Republican
National
Committee

November 26, 2004

VIA FACSIMILE AND FIRST CLASS MAIL

Jeff S. Jordan, Esq.
Complaints Examination & Legal Administration
Office of the General Counsel
Federal Election Commission
999 E St., NW
Washington, DC 20463

RE: MUR 5546

Dear Mr. Jordan

Enclosed please find the response of the Republican National Committee and Michael L. Retzer, as treasurer, in the above-captioned matter

Please contact the RNC Counsel's Office at (202) 863-8638 if you have any questions

Sincerely,

Eric Brown
Deputy Counsel

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FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

2004 NOV 30 A 11: 22

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
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)
)

Complaint filed by Steven C. Russo)
_____)

MUR 5546

RESPONSE OF THE REPUBLICAN NATIONAL COMMITTEE AND
MICHAEL L. RETZER, AS TREASURER

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OFFICE OF GENERAL
COUNSEL

2004 NOV 30 A 11: 23

The Republican National Committee and Michael L. Retzer, as treasurer ("RNC"), respectfully submit this response to the complaint filed by Steven C. Russo, designated as MUR 5546. The complainant alleges that a number of individuals and groups coordinated activity in violation of the Federal Election Campaign Act of 1971, as amended ("the Act").¹

Similar to the complaint in MUR 5525, see Ex. A (Response to MUR 5525), the centerpiece of the complaint is its prominent quotation of a joint press release issued by the Chairmen of the Bush campaign and the RNC commenting on the Commission's May 13, 2004 decision to exempt so-called "527 organizations" from the "political committee" definition. The context of the statement in the release cited by the complainant is that the Commission had given the "green light" to "all non-federal '527's' to forge full steam ahead in their efforts to affect the outcome of this year's Federal elections." A mere summary of Commission action in a public press release fails the coordination test, namely that a specific expenditure was made at the "request or suggestion" of a candidate or his agent. 2 U.S.C. § 441a(a)(7)(B)(i); 11 C.F.R. § 109.21.

Thus, based on the conclusory, unsubstantiated allegations and assumptions in the complaint, and for the reasons stated in the RNC's response to the complaint in MUR 5525, incorporated herein by reference, the Commission should dismiss this matter. Under the Act and Commission regulations, complaints should contain a recitation of facts "which describe a violation of a statute or regulation over which the Commission has jurisdiction." 11 C.F.R. § 111.4(d)(3) (emphasis added). The complainant in this matter sets forth information based on newspaper reports and press releases, yet arrives at

¹ Curiously, the author of this complaint appears to have coordinated with Kerry-Edwards 2004, Inc., in the filing of this complaint. Certain passages are taken verbatim from the complaint in MUR 5525 filed by Kerry-Edwards 2004, Inc. on August 30, 2004, and at a minimum appear to be a republication of campaign material. We trust that the Commission will investigate this.

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erroneous, unwarranted legal conclusions based on these assertions. Thus, the complaint requires dismissal. 2 U S C § 437g

Therefore, for the foregoing reasons, the RNC respectfully requests that the Commission act pursuant to 2 U S C § 437g(a)(1) and immediately dismiss this complaint, find no reason to believe that the RNC violated any provision of the Act in this matter, and close the file.

Respectfully submitted,

November 26, 2004

Jill Holtzman Vogel by ESB
Jill Holtzman Vogel

Chief Counsel

Charles R. Spies

Election Law Counsel

Counsel for the Republican
National Committee,
Michael L. Retzer, as treasurer

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter Of

The Complaint Filed by
Kerry-Edwards 2004, Inc.
Federal Election Commission

MUR 5525

2004 NOV 30 A 11:23

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

RESPONSE OF THE REPUBLICAN NATIONAL COMMITTEE
TO THE COMPLAINT OF KERRY-EDWARDS 2004, INC.

This is in response to the Complaint identified as MUR 5525 filed by Kerry-Edwards 2004, Inc. ("Kerry Campaign") against Swift Boat Veterans for Truth and eighteen other various individuals and organizations including the President of the United States and the Republican National Committee ("RNC").

The RNC finds the complaint baseless, both in law and in fact, noting that the Kerry campaign has failed to provide the factual basis for any violations of the Federal Election Campaign Act of 1971, as amended (2 U.S.C. § 431 *et seq.*)(hereinafter "the Act"). Instead the complaint cites only rhetoric and accusations concerning advertisements run by an organization entirely unrelated to the RNC. Specifically, the Kerry Campaign claims that ads run by the organization Swift Boat Veterans for Truth ("SBVT") are fraught with "outrageous lies" from a "sham organization" supported by Republican "operatives"—all political accusations meant to cast aspersions on advertisements adverse to the Kerry Campaign.

As the Kerry Campaign is clearly aware, it is not within the statutory purview of the Federal Election Commission ("FEC" or "Commission") to determine the factual accuracy of any political advertisement. Furthermore, lengthy elaboration on such issues appears merely to cover a lack of substantive claims and a failure to meet the Act's statutory threshold of providing factual substantiation for the allegations of "coordination" and "soliciting and spending soft money" found in the complaint.

A minimum threshold requirement for the Commission to consider such a complaint requires the complainant to allege not only a violation of a provision of the Act as well as the pertinent FEC Regulations, but also to provide underlying facts sufficient to support the allegations. Specifically, the complaint "should contain a clear and concise recitation of the facts which describe a violation of a statute or regulation over which the Commission has jurisdiction." 11 C.F.R. § 111.4(d)(3) (emphasis added). This complaint, however, while hyperbolically accusing a variety of prominent individuals and

Ex. A

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entities of violations of the Act, does not provide the requisite threshold facts describing a violation of statute or regulation necessary to justify the initiation of a Commission investigation.

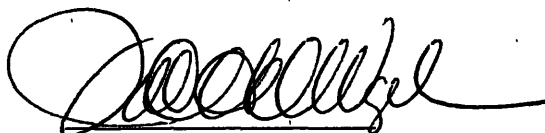
Finally, the attempt by the Kerry Campaign to link the RNC to SWVT is based solely on a quotation from a joint press release issued by the Chairmen of the Bush Campaign and the RNC commenting on the Commission's May 13, 2004 decision to exempt so-called "527 Organizations" from the definition of Federal Political Committees. The context of the statement in the release cited by the Kerry Campaign [Attachment A] is that the Commission had given the "green light" to "all non-federal '527's" to forge full steam ahead in their efforts to affect the outcome of this year's Federal elections."

Under that logic (that the RNC, by stating that the Commission gave the go-ahead to 527s, gave a "signal" to Republican groups to raise money and attempt to influence the presidential election) one must then conclude that because the RNC release referred to "all non-federal 527s" that the RNC was also signaling the *Democrat-leaning* 527s to continue their unprecedented and ongoing campaign against President Bush. This is a preposterous proposition. A mere summary of Commission action in a public press release does not meet the statutory or regulatory requirements to find coordination, namely that a specific expenditure was made at the "request or suggestion" of a candidate or his agent. 2 U.S.C. §441a(a)(7)(B)(i).

The Kerry Campaign similarly fails to substantiate any of its claims that SWVT is "an entity financed, maintained and controlled by the Bush campaign and the Republican Party." The Kerry Campaign cites that SWVT issued a press release including a phone number belonging to Creative Response Concepts. The Kerry Campaign goes further to state that the firm includes the RNC on its web site list of current and former clients. Based upon that web site reference alone, the Kerry Campaign stretches a conclusion that the "media firm is serving as a conduit of information between SBVT and the RNC and the campaign." Again, the allegation is baseless. The RNC is not now, and has not been during this 2003-2004 election cycle, a client of Creative Response Concepts.

Therefore, for the foregoing reasons, the RNC respectfully requests that the Commission act pursuant to 2 U.S.C. 437g(a)(1) and immediately dismiss the Kerry Campaign's complaint against the RNC, find no reason to believe that the RNC violated the Act, and close the file with respect to the RNC as it pertains to MUR 5525.

Respectfully Submitted,



Jill Holtzman Vogel

Chief Counsel

Charles R. Spies

Election Law Counsel

September 24, 2004

Counsel for the Republican National
Committee and Mike Retzer,
as Treasurer

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